

The Plaintiff has not paid the filing fee or filed an Application to proceed in forma pauperis the time to do so has expired. Instead, he filed a “Petition for Cost Under Rule 40 of Supreme Court of the United States.” [Doc. 3]. He argues that he is exempt from paying the filing fee as a veteran. [Id.]. Supreme Court Rule 40(1) exempts “a veteran suing to establish reemployment rights under 38 U.S.C. § 2022, or under any other provision of law exempting

veterans from the payment of fees or court costs...” from prepaying fees or costs.¹ However, the Complaint does not address reemployment rights, and it does not identify any other provision that would excuse the Plaintiff from prepaying fees or costs in this civil rights action.² Accordingly, the Petition will be denied and the Plaintiff must either pay the filing fee or file an Application to proceed in forma pauperis within 21 days of this Order. Failure to comply will result in the dismissal of this action without further notice.

IT IS, THEREFORE, ORDERED that:

1. The Plaintiff’s “Petition for Cost Under Rule 40 of Supreme Court of the United States” [Doc. 3] is **DENIED**.
2. The Plaintiff shall pay the filing fee or file an Application to proceed in forma pauperis within **twenty-one (21) days** of this Order. The failure to comply will result in the dismissal of this action without further notice.

The Clerk is respectfully instructed to mail the Plaintiff a blank IFP Application long form (AO 239) and a copy of this Order.

IT IS SO ORDERED.

Signed: February 22, 2024



Graham C. Mullen
United States District Judge



¹ Rule 40 also addresses the waiver of prepaying fees or costs for seamen and accused persons seeking certiorari review, which do not apply here. U.S.S.Ct. Rule 40(2)-(3).

² The Petition also fails to adequately demonstrate the Plaintiff’s veteran status as required by Rule 40(1).